

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.48 of 2020

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, government of Bihar, Old Secretariat, Bailey Road, Patna.
2. The Director, I.C.D.S., Indira Bhawan, Ramcharitra Singh Path, Bailey Road, Patna- 1.
3. The Director, Department of Social Welfare, Government of Bihar, Old Secretariat, Bailey Road, Patna.
4. The Deputy Director, Social Welfare Department, Patna, District- Patna.
5. The District Magistrate, Bhojpur, District- Bhojpur.
6. The District Programme Officer, Bhojpur, District- Bhojpur.
7. The Child Development Project Officer, Bakhtiarpur Block Agoan District- Bhojpur.

... .. Petitioner/s

Versus

Phuljhari Kumari, W/o Sri Vinod Ram, R/o Village- Tarachak, P.s.-Azimabad,
District- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramashray Ray, AC to AAG-11
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 10-07-2025

Heard the parties.

2. The present petition has been preferred for the
following relief/s:

*(i) for review of order dated 11.03.2019
passed passed in C.W.J.C. No. 12079 of
2014 by which the writ application preferred
against the order dt. 26.04.2014 passed by
the Deputy Director, Social Welfare*



Department, Patna in Anganbari Appeal No. 13 of 2012-13 and the order dt. 26.04.2012 of the District Programme Officer, Bhojpur by which the appointment of writ petitioner as Anganbari Sevika was terminated, has been set aside/quashed with direction to reinstate the writ petitioner with consequential benefit suffers from error "Suppressio veri" apparent on the face of record warranting dismissal of the writ petition.

3. The matter relates to **Anganbari Centre, Tarachak (Centre Code No.110) under Agiwan** in the district of **Bhojpur** where the writ petitioner Phuljhari Kumari, the sole opposite party came to be appointed as an Aanganbari Sevika.

4. An inspection of the center took place on 13.02.2012 and having not found Sevika/Sahaika at the center and alleging that the meal was also not prepared, the writ petitioner-opposite party was put on notice by the District Programme Officer, Bhojpur at Ara vide letter no. 540 dated 28.04.2012.

5. The lady gave reply on 07.05.2012 annexing the



prescription of the Doctor to show that she was indisposed suffering from stomach disorder and the absence was not intentional. She thus prayed for exoneration from the charges.

6. Subsequently, the order of termination dated 26.04.2012 was issued by the District Programme Officer, Bhojpur recording that the explanation has not been found to be satisfactory (Annexure-3 to the writ petition).

7. An appeal preferred before the Appellate Authority came to be dismissed on 26.04.2014 by the Deputy Director, Patna Division, Patna which followed the writ petition.

8. The writ court having gone through the facts of this case and taking note of an order of **Sabita Kumari vs. State of Bihar & Ors (C.W.J.C. No. 308 of 2015)** held that extreme penalty of removal in the case of 'Aanganbari Sewika' for one day absence is grossly disproportionate to the allegation/misconduct found at the time of inspection. Accordingly, the writ petition was allowed vide an order dated 11.03.2019.

9. Instead of complying with the order of the Court, the State respondent chose to file the present review petition in the year 2020 and in these circumstance, the matter has come before this Court.



10. It is again to be noted that for four years, the review petitioner-State chose to keep the case defective so that the same is not taken up. In that circumstance, on 26.10.2024, a coordinate bench passed an order to remove the defects within four weeks. As it was a peremptory order and the State failed to comply the order, it stood dismissed on 23.11.2024.

11. Thereafter, MJC No. 4475 of 2024 (Restoration) was filed which was allowed vide an order dated 27.06.2025. Only thereafter, this review petition has seen the light of the day.

12. Learned counsel for the petitioners submit that the review has been filed on the ground that during the pendency of the writ petition and before the order was passed by the writ court on 11.03.2019, another selection was made and in that circumstance, when the seat is/was not vacant, the respondents are/were unable to comply the order.

13. In support of the case, learned State counsel took this Court to the selection process dated 03.11.2016 to show that one Nisha Kumari was selected for the said center/post. It is to be noted that the new incumbent, Nisha Kumari has not challenged the order of the writ court.

14. This Court has gone through the said selection process dated 03.11.2016 and has further taken note of



paragraph-1 which read as follows:

(1) इस पद पर पूर्व चयनयुक्त सेविका का न्यायालय में वाद चल रहा है। आदेश पारित होने पर न्यायालय आदेश के आलोक में यह चयन प्रभावित होगा।

15. From the aforesaid facts, it is clear that the Committee selecting the lady Nisha Kumari took utmost care in recording/informing the candidate that her selection shall be subject to the final outcome of the writ petition filed by Phuljhari Kumari.

16. Further, it is to be noted that a Division Bench of Patna High Court of which this Court was also a member in the case of **Smt. Sima Devi vs. State of Bihar (LPA No. 991 of 2019)** vide an order dated **01.09.2022** allowed the claim of the terminated 'Aanganbari Sevika' holding that the show cause filed by her denying the allegation was not taken note of nor a proper enquiry followed and in that background, mere satisfaction of the respondent has to go. The Court further held that the Appellate Court merely approved the order without applying his own mind. Further, while reinstating Smt. Sima Devi, selection letter incorporated a clause that the selection shall be affected by the order of the Appellate Court.



17. Clearly, the State is playing game. Despite the Selection Committee informing the new incumbent about her selection being subject to final outcome of the writ petition filed by the sole opposite party, Phuljhari Kumari; instead of allowing the writ petitioner to enjoy the fruits of the order passed by the writ court in the year 2019, after much delay, a civil review was filed in the year 2020.

18. It was kept pending for four years, the peremptory order dated 28.10.2024 for removing the defect was not complied, it stood dismissed 23.11.2024. Later, a restoration petition was filed which came to be allowed on 27.06.2025, whereafter, the civil review has come before this Court. In the entire process, it is Phuljhari Kumari who has silently suffered despite having won the battle in the year 2019.

19. Accordingly, the Civil Review petition is dismissed with a cost of Rs.10,000/- to be paid by the District Programme Officer, ICDS, Bhojpur and to be handed over to the lady, Phuljhari Kumari within a period of four weeks from today. She be further reinstated as the 'Aanganbari Sevika' forthwith. Failure to do so, the lady is free to file contempt petition against the respondents.

20. Needless to add, the review petitioners



respondents shall be free to realise the aforesaid amount from the Officer who took the decision to file civil review petition despite the selection order clearly specifying that the selection process shall be subject to the final outcome of the writ petition filed by the writ petitioner.

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14.07.2025
Transmission Date	14.07.2025

